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SPEECH

OF

HON. N. S. TOWNSHEND, OF OHIO,

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, MARCH 17, 1852.

The House having resolved itself into the Committee of the Whole on the state of the Union, (Mr. MEADE, of Virginia, in the chair,) &c.—

Mr. TOWNSHEND said:

Mr. CHAIRMAN: I desire to avail myself of the latitude of debate usually tolerated in this committee, to present what I conceive to be the true method to secure the pacification of the country in general, and of the Democratic party in particular.

The action of the last Congress on the series of measures known as the compromises; the efforts made to secure their indorsement by both party caucuses at the beginning of the present session—and subsequently in this House and in the Senate; the resolutions adopted by the Legislatures of several States, and the avowed opinions of several presidential candidates prove, beyond the possibility of doubt, that SLAVERY, in some form or other, either rightfully or wrongfully, is, in fact, the great question now before the country. It occasions more strife, both sectional and personal, has more to do with the selection of our public officers, and interferes more with the legitimate business of Congress, than all other political questions put together.

In view of this, I ask, in seriousness, the question, What has Congress to do with slavery?

For an answer to the question I shall not intrude upon the committee my own opinions, but refer directly to the authorized creed of the Democratic party—the Baltimore platform:

"*Resolved*, That Congress has no power under the Constitution to interfere with or control the domestic institutions of the several States, and that such States are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the Constitution," &c.

With this doctrine, the platform of the Ohio Democracy agrees. After asserting that slavery is an evil, &c., it says:

"*But be it further resolved*, That the Democracy of Ohio do at the same time fully recognize the doctrine held by the early fathers of the Republic, and still maintained by the Democratic party in all the States, that to each State belongs the right to adopt and modify its own municipal laws, to regulate its own internal affairs, and to hold and maintain an equal and independent sovereignty with each and every other State, and that upon these rights the National Legislature can neither legislate nor encroach."

So well settled is this position, that it is indorsed also by the Buffalo platform of 1848, as follows:

"*Resolved*, That slavery in the several States of this Union that recognize its existence, depends upon State laws alone, which cannot be repealed or modified by the Federal Government, and for which that Government is not responsible; we, therefore, propose no interference by Congress with slavery within the limits of any State."

These resolutions all agree in declaring slavery to be a State, and not a National institution; they all assert it to be under the sole control of the States where it exists, and therefore not a subject for national legislation.

I come now to a second inquiry. If Congress has no power granted by the Constitution over slavery, by what right has Congress been legislating in reference to it, and what propriety is there in bringing the subject continually before Congress? On this point, the Baltimore platform is equally explicit. The remainder of the resolution, of which I have already read a part, is as follows:

"And that all efforts of the ABOLITIONISTS, or OTHERS, made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions."

It is plain enough, Mr. Chairman, that the convention that adopted this resolution, or, at any rate, its framers, supposed that Congress was liable to be disturbed by agitations of the slavery question, and solicitations to legislate on the subject coming from two opposite quarters; first, from the opponents of slavery, who are here called ABOLITIONISTS; and secondly, from the friends of slavery who come under the general description of "OTHERS." The opponents of slavery seem to be suspected of wishing Congress to interfere with slavery in the States, and the friends of slavery, on the other hand, of desiring Congress to legislate in its behalf, or for its extension beyond State limits. From whatever quarter agitations might come, or efforts to induce Congress to legislate on the subject, such efforts, according to the Baltimore plat-

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form, are greatly to be deprecated, and ought to be discountenanced.

I propose now to inquire, from which side these instigations to national interference have come, and whether the friends of slavery or its opponents are to blame for the consequent disturbance of the public harmony.

The law of 1793—the first example of national legislation on the subject—was passed at the demand of the friends of slavery, to enable them to recapture their runaways with greater facility. This law not only gave national aid to a State institution, which is declared to be no concern of ours, but it was an unconstitutional assumption of power on the part of Congress, violating the sovereignty of all the free States.

By another act of Congress, the General Government became responsible for the existence of slavery in this District, and Congress has been legislating on the subject, for the District, more or less ever since; and this, doubtless, to please the friends of slavery.

At different periods, North Carolina and Georgia made cessions of territory to the United States, out of which, Kentucky, Tennessee, Alabama, and Mississippi have been formed. Congress accepted the cession of this territory with an express proviso—a sort of anti-Wilmot proviso—that Congress should never abolish slavery there. Thus giving, at the desire of the friends of the system, a national, though unconstitutional guarantee for its security in those Territories.

Louisiana and Florida were ceded to the United States by France and Spain. The treaties of cession required the United States to secure the blessings of liberty to all the *inhabitants;* yet Congress was induced to tolerate slavery there, forgetting, perhaps, that the National Government was framed for a nobler purpose than the protection of slave property.

And subsequently, when California sought admission into the Union, with such a constitution as she had a right to adopt, because she preferred a free and homogeneous to a mixed population, half free and half slave; because she preferred a system that admits of unlimited progress, to that system which has brought such a Rip Van Winkle sleep on some of the slave States; because her sons chose by honorable labor to get an honest living, rather than to whip it out of other men: for this, and for no other reason that I know of, the friends of slavery resisted her admission. Who is responsible for the agitation growing out of that resistance?

And finally, the friends of slavery clamored for, and secured the passage of the fugitive bill, which Congress had no right or authority to pass. In all these cases, and others I have not time to enumerate, who is responsible for "efforts to induce Congress to interfere with questions of slavery?"

On the other hand, I have yet to learn where the opponents of slavery have demanded any unconstitutional interference with the system. They have petitioned for the abolition of slavery in this District; but this is simply asking of Congress to undo what it had no right to have done in the first place. The interference is on the part of those who gave slavery a legal sanction here; not on the part of those who sought its removal.

The stoppage of the coastwise slave-trade has also been demanded; but before any petitions for this object had been presented, Congress, by direct legislation, had taken this traffic under its protection and regulation, prescribing all the details.

Petitions have also been presented asking the prohibition of the inter-State slave-trade. But previous to the presentation of these petitions demands had frequently been made on Congress for payment for slaves, and such claims are even now before this body. Is it strange that the opponents of the system, if compelled to recognize slaves as merchantable commodities, should ask to have the trade in such commodities regulated as other commerce may be, or even prohibited as any other immoral and injurious traffic may be?

The opponents of slavery also resisted the admission of Missouri into the Union as a slave State. The terms on which this territory was ceded, if faithfully observed, would have excluded slavery. To give territory purchased by the common treasure of the country up to slavery, is virtually to exclude every laboring freeman from its borders; they cannot live where labor is degraded by the presence of slaves.

When Oregon was about to have a territorial government, the opponents of slavery insisted on the adoption of the Jeffersonian proviso. They had been excluded from every foot of the territory acquired since the adoption of the Constitution, except the State of Iowa. They had some rights surely. But they insisted on the proviso for a still better reason—that the General Government had no right to tolerate slavery within its jurisdiction.

We resisted, also, the provision in the acts establishing territorial governments in New Mexico and Utah, by which it is said to be settled, that when these Territories are admitted as States they may come in with slavery if they please. Had the last Congress a right to say upon what terms a future Congress should admit new members into the Confederacy? Is not that a question for the States which may then constitute the Union to settle for themselves? The unconstitutional legislation on this subject, in advance of the time when any legislation was required, is another instance of the meddlesome interference of the friends of slavery.

But the last and crowning iniquity is the passage of the fugitive bill. This was resisted, of course; and I can assure gentlemen that there is no prospect of quiet for them, while such an act remains in the statute book. I do not propose to discuss its demerits at this time. I regard it as utterly and entirely unconstitutional. But had I time, I would read parts of the Kentucky and Virginia resolutions of 1798, which cover the entire question. I shall not hesitate to treat this fugitive bill as Jefferson and Madison treated the alien and sedition laws—as absolutely null and void.*

Now, then, Mr. Chairman, I am prepared to assert that, according to my understanding of the Constitution, and from what I know of the history of the country, all the reprehensible agitation of the slavery question, and unconstitutional legislation on the subject, is chargeable to the friends of the system, and not upon its opponents.

I now come to another question. What can be done to quiet the country in reference to this subject? In my opinion, we shall not secure the result either by passing compromise measures, or by

* See the resolutions at the end of the speech.

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indorsing or reindorsing them; every indorsement being only a repetition of the outrage. Two things are required; first, that all existing unconstitutional legislation on the subject be immediately repealed, and then, that the friends of slavery, and all parties, keep within constitutional limits for the future. These are absolutely necessary, even to the beginning of harmony in the country.

I have heard it said, that if the fugitive bill is repealed, or slavery abolished in this District, the South will dissolve the Union; but, gentlemen, that cry has been heard too often to make much impression upon the North. Coming from that quarter it is simply nonsense; for who does not know that the Union is infinitely more important to the slaveholders, than the slaveholders are to the Union. I think of this cry of dissolving the Union as I do of the boy's threat, who, because his mother would not suffer him to pinch the cat's tail when he pleased, declared he would go to the neighbors, where they had the measles, and catch the disease, and die, to spite her. [Laughter.]

I now come to the question which, perhaps, interests us most. What must be done to secure the harmony of the Democratic party? Democrats throughout the country, I suppose, agree on certain great and fundamental principles, while there may often be found among them some disagreement in their application; particularly on this question of slavery it is apparent enough there are great differences of opinion. What will you do? Will you adopt some stringent party test, and demand that all who are to be recognized as belonging to the party shall subscribe to it? This plan would probably result in such a purging of the party as the gentleman from Georgia recommended; but I respectfully submit if it is not probable that the operation might result as in cholera cases, and the patient be afterwards found in a state of collapse? If you undertake to exclude from the Democratic party all those who, holding the great doctrines of the Democratic faith, dislike the institution of slavery, you will, I imagine, scarcely retain a corporal's guard in some of the States. However, I will not venture to speak of States whose representatives are here to speak for themselves.

But I believe the Democracy of Ohio intend to maintain the spirit of their own State platform, and will not quietly submit to an indorsement of the compromise measures, some of which are directly hostile to our own avowed political creed. At three several State conventions, (the last held on the 6th day of August last,) a resolution was adopted preceding the one I read at the commencement of my remarks. It is as follows:

"*Resolved*, That the people of Ohio now, as they always have done, look upon slavery, in any part of the Union, as an evil, and unfavorable to the full development of the spirit and practical benefits of free institutions, and that, entertaining these sentiments, they will at all times feel it to be their duty to use all power clearly given them by the terms of the national compact to prevent its increase, and to mitigate and finally eradicate the evil."

If I understand the matter aright, some of these compromise measures are in direct opposition to the often expressed position of the Democracy of Ohio. The proviso respecting slavery in Utah and New Mexico is directly opposed to our determination to use all constitutional means for the limitation and final eradication of the system, and it is my conviction, if the Democratic party in the Baltimore Convention adopts a resolution indorsing those compromises, the electoral vote of Ohio will not be given to the nominee of that convention. There may be differences of opinion on this point; but I think the position of the Ohio Democracy was honestly and deliberately taken, and I cannot suppose they were so hypocritical as to avow doctrines and sentiments before the people, and then falsify them by their own action.

As an evidence that the people of Ohio will stand up to the doctrine of the resolution I have read, I may allude to the fact, that of her twenty-three representatives in Congress, including Senate and House, only four were found friendly to an attempt to secure an indorsement of the compromise measures by this House. There are differences of opinion in Ohio, as that vote will show; for I take it for granted that every one of my colleagues represents the wishes of his constituents.

I may also allude to another significant fact. The only Democratic members who voted for the fugitive bill were left at home by their constituents, and are not members of the present Congress.

Mr. OLDS, (interrupting.) Will my colleague allow me to say, in regard to Mr. Miller, one of the gentlemen to whom he alludes, that the nomination came off in his district before the passage of the fugitive bill?

Mr. TOWNSHEND. This may be so. I presume my colleague cannot be mistaken. However, it does not materially affect my statement, for every one knew perfectly well how Mr. Miller would vote, if he voted at all.

I may mention another significant fact, which I have seen noticed in some papers, and which, from personal knowledge, I believe to be correctly stated. At the State Democratic Convention on the 6th of August, before alluded to, a committee of twenty-one, or one from each Congressional district, was appointed to present resolutions to the convention. One gentleman proposed a resolution indorsing the compromises, and supported his motion by a very able speech—indeed, the best I have ever heard in favor of such a course. But when the question was put to vote, but one solitary vote—that of the mover—was given in the affirmative. It is possible that some of the members of that committee may have been themselves in favor of considering these compromise measures as a settlement of a vexed question; but the fact that they did not choose to go into the State election with such a millstone about their necks would indicate, I think, that there can be but little room for mistake respecting the sentiments of the people of Ohio. After rejecting the compromise resolution, and adopting what I have read, the Democratic party of Ohio received a much larger majority than it had ever before obtained.

Mr. OLDS, (interrupting.) I wish to say a word with regard to the August convention. I think I understand the Democracy of Ohio; and by their resolutions they merely wished to reaffirm the resolutions of 1848, upon which they had carried the State for General Cass. And, sir, I believe the Democracy of that State stand now where they did when they carried that State for General Cass in 1848. I have no doubt that if the question were submitted to them to-day on sustaining the compromise measures, the Democracy of Ohio would vote to sustain these measures. True, they did not pass resolutions affirming or

condemning, but those measures were understood as a finality by the people. And when my colleague says that we treat the fugitive law in Ohio as our fathers did the alien and sedition law, I hope he does not refer to the Democratic party. We are a law-abiding people, and until you repeal that law, we shall abide by it.

Mr. CABLE. I wish merely to say one word in reference to the point in controversy between my two colleagues. I can speak for my district alone, and so far as it is concerned the Democracy stand decidedly opposed to the fugitive slave law, and to the Utah and New Mexico bills.

A VOICE. And the Texas boundary bill.

Mr. CABLE. Yes, and to the Texas boundary bill.

Mr. TOWNSHEND. My colleague [Mr. OLDS] says that the August convention simply reaffirmed the resolutions of 1848, upon which the State was carried for General Cass. This is not quite correct, for although the resolutions of 1851 were first adopted in 1848, and again in 1850, the convention of 1851 did not reaffirm in general terms the resolutions of the platform of 1848, but only adopted so much of that platform as had been reaffirmed in 1850, which, in fact, was only the slavery resolution.

In justice to the Democracy of Ohio, I ought also to say, what at the moment had escaped my recollection: That still another Democratic State Convention, held as late as the 8th of January of the present year, has reiterated in full these resolutions on slavery. At this last convention, held since the commencement of the present session of Congress, the Democracy of our State have put forth an admirable platform, giving good evidence of the progress of free principles in the State; for while it shows a determination to do equal and exact justice at home, it expresses a proper abhorrence of tyranny abroad.

My colleague says the people of Ohio are a law-abiding people, and he wishes to relieve himself from all participation in such of my remarks as referred to the fugitive bill. I am of course willing that he should have the benefit of his disclaimer; and I beg to say to the House that I too claim to be a law-abiding man; but I do not consider an unconstitutional enactment to be law, nor any enactment in palpable violation of the dictates of common justice or humanity. I am fully aware, Mr. Chairman, that there are differences of opinion on these subjects among the Democrats of Ohio. I have not said that I represent the views of all he Democrats of the State; but what I do say is this, that while some Democrats in Ohio will sustain the fugitive bill and agree to the compromises generally, there are others all over the State, quite as radically Democratic, and even more reliably Democratic on all questions at issue between the Whigs and Democrats, whose views, I think, I do not misrepresent when I say they are unalterably opposed to these compromise measures. Of such I presume there are as many in the district I represent as in any other part of the State. What I desire is not to give the impression that we are all agreed, but admitting our disagreement to draw from that fact an argument against the introduction of any new party tests, the effect of which, as I have already said, would be to lose the electoral vote of the State for your presidential candidate.

Mr. EDGERTON, (interrupting.) I suppose the gentleman is now also speaking for his district alone, and not for the State. I wish to understand distinctly whether my colleague speaks now for the whole State or for his own district?

Mr. TOWNSHEND. At the moment of my colleague's question, I believe I was expressing simply my own opinion, without assuming to speak for any one else, and I repeat it in substance. If Democrats in the district I represent, and those Democrats in other parts of the State, whose views I represent, do not vote for a candidate put on a compromise platform, I give it as my opinion that he will not get the vote of the State.

Mr. EDGERTON. I beg leave to say, as one of the representatives from the State of Ohio, that I dissent from the opinion of the gentleman.

Mr. TOWNSHEND. I certainly do not wish my friend held responsible for any opinion I may think proper to express, though, perhaps, we are after all not so far asunder, for I think he voted with me, the other day, to keep these compromise measures from coming before the House.

Mr. EDGERTON. Most assuredly I did.

Mr. TOWNSHEND. And I have no doubt, Mr. Chairman, that my colleague, in that vote, faithfully reflected the will of his constituency, all of which goes to prove the correctness of my opinion that the compromise measures are not popular in Ohio, not even in that gentleman's district.

Mr. HENN. I desire to ask the gentleman from Ohio, whether there are two Democratic parties in Ohio?—and whether the convention of which he has spoken, was a convention of the regular Democratic party?

Mr. TOWNSHEND. The convention that adopted the resolutions I have read, was the convention of the regular Democratic party of the State. It was the same convention that nominated Reuben Wood for Governor.

Mr. EDGERTON. Will my colleague allow me to interrupt him for a moment? I beg to say that there is but one Democratic party in Ohio, and there never was but one Democratic party in that State, and that party invariably supports the nominee of the National Democratic Convention for the Presidency. And when you can show me a man in Ohio, a Democrat, who has voted against the regular nominee of that convention, I will show you a man who is not regarded as a true Democrat by the party of the State. He may be regarded as such in his district, but he is not in good standing with the Democratic party of that State at large.

Mr. TOWNSHEND. Mr. Chairman, whether my colleague or myself is considered in Ohio as the better Democrat, is, I presume, of little consequence to this House. For myself, I have only to say, that I shall faithfully represent my own convictions of duty and the wishes of my constituents. If this is incompatible with a standing in the party, I must submit to the loss of it. And I suggest to my colleague that neither is he called upon to speak for the whole State of Ohio; but simply for his own district.

Mr. GORMAN. Will the gentleman from Ohio allow me to ask him a question? Will he be kind enough to say for whom he voted, in 1848, for the Presidency?

Mr. TOWNSHEND. I answer the gentleman with great pleasure. I voted for Martin Van Bu-

ren, a good Democrat, and one who had often been thoroughly indorsed by the Democratic party. On one point I can, perhaps, say more than some of my Democratic friends: I have never voted for "Whigs."

I have only a few words more that I care to say, and these could have been uttered some minutes since, had I not been interrupted. If union is necessary to the success of the Democratic party, that party must eschew all merely sectional tests, and adopt a platform in strict accordance with the fundamental principles of the party as heretofore understood. Upon such a platform only can the Democratic party of the whole country stand in harmony.

[Here the hammer fell.]

Kentucky Resolutions of 1798.

[*Original draft prepared by Thomas Jefferson.*]

The following resolutions passed the House of Representatives of Kentucky, November 10th, 1798. On the passage of the 1st resolution, one dissentient; 2d, 3d, 4th, 5th, 6th, 7th, 8th, two dissentients; 9th, three dissentients.

1. *Resolved*, That the several States composing the United States of America are not united on the principle of unlimited submission to their General Government; but that, by compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, VOID, and of NO FORCE; that to this compact each State acceded, as a State and as an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

2. *Resolved*, That the Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offenses against the laws of nations, *and no other crimes whatever;* and it being true, as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people;" therefore, also, the same act of Congress, passed on the 14th day of July, 1798, and entitled "An act in addition to the act for the punishment of certain crimes against the United States;" as also the act passed by them on the 27th day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States," *and all other of their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution, are altogether* VOID *and of* NO FORCE; and that the power to create, define, and punish such other crimes is reserved, and of right appertains, solely and exclusively, to the respective States, each within its own territory.

3. *Resolved*, That it is true, as a general principle, and is expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people;" and, that no power over the freedom of religion, freedom of speech, or freedom of the press, being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or to the people; that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged, without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated, rather than the use should be destroyed; and thus, also, they guarded against all abridgment by the United States, of the freedom of religious principles and exercises, and retained to themselves the right of protecting the same, as this, stated by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference; and, that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares that "Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding, in the same sentence, and under the same words, the freedom of religion, of speech and of the press; insomuch, that whatever violates either, throws down the sanctuary which covers the other; and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals. That therefore, the act of the Congress of the United States, passed on the 14th of July, 1798, entitled "An act in addition to the act entitled an act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is NOT LAW, but is altogether VOID and OF NO EFFECT.

4. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual States, distinct from their power over citizens; and it being true, as a general principle, and one of the amendments to the Constitution having also declared that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," the act of the Congress of the United States, passed the 22d day of June, 1798, entitled "An act concerning aliens," which assumes power over alien friends, not delegated by the Constitution, is NOT LAW, but is altogether VOID and of NO FORCE.

5. *Resolved*, That in addition to the general principle, as well as the express declaration that powers not delegated are reserved, another and more special provision inserted in the Constitution, from abundant caution, has declared that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." That this Commonwealth does admit the migration of alien friends, described as the subject of the said act concerning aliens; that a provision against prohibiting their migration is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them, when migrated, is equivalent to a prohibiton of their migration, and is, therefore, contrary to the said provision of the Constitution, and *void*.

6. *Resolved*, That the imprisonment of a person under the protection of the laws of this Commonwealth, on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act, entitled "An act concerning aliens," is contrary to the Constitution—one amendment in which has provided, that "*no person shall be deprived of liberty without due process of law;*" and that another having provided, that "in all criminal prosecutions the accused shall enjoy the right to a public trial by an impartial jury; to be informed as to the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have assistance of counsel for his defense"—the same act undertaking to authorize the President to remove a person out of the United States, who is under the protection of the law, *on his own suspicion, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defense, without counsel, is contrary* to these provisions, also, of the Constitution, is therefore NOT LAW, but utterly VOID, and of NO FORCE. That transferring the power of judging any person who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides that "the Judicial power of the United States shall be vested in the courts, the judges of which shall hold their office during good behavior," and that the said act is void for that reason also; and it is further to be noted, that this transfer of judiciary power is to that magistrate of the General Government who already possesses all the executive and a qualified negative in all the legislative powers.

7. *Resolved*, That the construction applied by the General Government (as is evinced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress power to lay and collect taxes, duties, imposts, excises, to pay the debts and provide for the common defense and general welfare of the United States, and to make all laws which shall be necessary and proper

for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution: That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of that instrument: That the proceedings of the General Government, under color of these articles, will be a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8. *Resolved*, That the preceding resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are enjoined to present the same to their respective Houses, and to use their best endeavors to procure, at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

9. *Resolved*, lastly, That the Governor of this Commonwealth be, and is hereby, authorized and requested to communicate the preceding resolutions to the Legislatures of the several States, to assure them that this Commonwealth considers union for special national purposes, and particularly for those specified in the late federal compact, to be friendly to the peace, happiness, and prosperity of all the States; that, faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation; that it does also believe, that to take from the States all the powers of self Government, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States; and that therefore, this Commonwealth is determined as it doubts not its co-States are, not tamely to *submit* to *undelegated*, and consequently, unlimited *powers, in no man or body of men on earth;* that if the acts before specified should stand, these conclusions would flow from them—that the General Government may place any act that they think proper on the list of crimes, and punish it themselves, whether enumerated or not by the Constitution as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these States being, by this precedent, reduced as outlaws to the absolute dominion of one man, and the barriers of the Constitution thus swept from us all, no rampart now remains against the passions and the powers of a majority of Congress to protect from a like exportation or other grievous punishment, the minority of the same body, the legislatures, judges, governors, and councilors of the States, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the States and people, or who, for other causes, good or bad, may be obnoxious to the view, or marked by the suspicions of the President, or to be thought dangerous to his or their elections, or other interests, public or personal; that the friendless alien has been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed, for already has a sedition act marked him as a prey; that these, and successive acts of the same character, unless *arrested on the threshold*, may tend to drive these States into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is everywhere the parent of despotism—free government is founded in jealousy, and not in confidence: it is jealously, and not confidence, which prescribes limited constitutions, to bind down those whom we are obliged to trust with power; that our Constitution has, accordingly, fixed the limits to which, and no further, our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the Government it created, and whether we should be wise in destroying those limits? Let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to, and accepted, over the friendly strangers to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substances of law and justice. In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution. That THIS COMMONWEALTH DOES THEREFORE CALL ON ITS CO-STATES for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes hereinbefore specified—plainly declaring whether these acts are or are not authorized by the federal compact. And it doubts not that their sense will be so announced as to prove their attachment to limited government; whether general or particular, and that the rights and liberties of their co States will be exposed to no dangers by remaining embarked on a common bottom with their own; but they will concur with this Commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise, over these States, of all powers whatever. That they will view this as seizing the rights of the States, and consolidating them in the hands of the General Government, with a power assumed to bind the States, (not merely in cases made federal, but in all cases whatsoever,) by laws made, not with their consent, but by others against their consent, that this would be to surrender the form of government we have chosen, and live under one deriving its powers from its own will, and not from our authority; and that the co-States, recurring to their natural rights in cases not made federal, will concur in declaring these acts VOID and of NO FORCE, and will each unite with this Commonwealth in requesting their repeal, at the next session of Congress.

EDMUND BULLOCK, *S. H. R.*
JOHN CAMPBELL, *S. S. P. T.*

Passed the House of Representatives, *November*, 10, 1798.
Attest: THOS. TODD, *C. H. R.*

IN SENATE, *November*, 13, 1798—unanimously concurred in.
Attest: B. THRUSTON, *C. S.*

APPROVED, *November 19th*, 1798.
JAMES GARRARD.
Governor of Kentucky.

By the Governor:
HARRY TOULMIN, *Secretary of State.*

THE VIRGINIA RESOLUTIONS OF 1798.

[DRAWN UP BY JAMES MADISON.]

IN THE VIRGINIA HOUSE OF DELEGATES,
FRIDAY, *December* 21, 1798.

Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the constitution of this State, against every aggression, either foreign or domestic; and that they will support the Government of the United States in all measures warranted by the former.

That this Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which, it pledges its powers; and that for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States, who are parties thereto, have the right, and are in DUTY BOUND, to interpose, for arresting the progress of the evil and for maintaining within their respective limits, the authorities, rights, and liberties, appertaining to them.

That the General Assembly doth also express its deep regret that a spirit has, in sundry instances, been manifested by the Federal Government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases, (which having been copied from the very limited grant of powers in the former articles of confederation, were the less liable to be misconstrued,) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases, and so as to *consolidate the States, by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present*

republican system of the United States into an absolute, or at best, a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "alien and sedition acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto; a power which, more than any other, ought to produce universal alarm, because it is leveled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

That this State having, by its Convention which ratified the Federal Constitution, expressly declared that, among other essential rights, "the liberty of conscience and the press cannot be canceled, abridged, restrained, or modified, by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having, with other States, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution, it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were now shown to the most palpable violation of one of the rights thus declared and secured; and to the establishment of a precedent which may be fatal to the other.

That the good people of this Commonwealth, having ever felt, and continuing to feel, the most sincere affection for the brethren of the other States; the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are UNCONSTITUTIONAL; and that the necessary and proper measures will be taken *by each* for coöperating with this State in maintaining unimpaired the authorities, rights, and liberties, reserved to the States respectively, or to the people.

That the Governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this State in the Congress of the United States.

Attest: JOHN STEWART.

Agreed to by the Senate, *December 24th*, 1798.

H. BROOKE.

A true copy from the original deposited in the office of the General Assembly.

JOHN STEWART, *Keeper of the Rolls.*

Printed at the Congressional Globe Office, Washington.

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